



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0115; Notice 2]

Yokohama Tire Company, Denial of

Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration

ACTION: Notice of Petition Denial

SUMMARY: Yokohama Tire Company (YTC)¹, has determined that certain P215/60R15 93H AVID H4S passenger car replacement tires failed to comply with paragraph S5.5.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. YTC has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (dated January 21, 2010).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, YTC has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of YTC's petition was published, with a 30-day public comment period, on August 20, 2010, in the Federal Register (75 FR 51524). No comments were received. To view the

¹ Yokohama Tire Company (YTC) is a replacement equipment manufacturer incorporated in the state of California.

petition and all supporting documents log onto the Federal Docket Management System Web site at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0115."

CONTACT INFORMATION: For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

SUMMARY OF YTC'S PETITION: YTC petitioned NHTSA for a determination that a noncompliance in approximately 6,254² P215/60R15 93H AVID H4S passenger car replacement tires that were manufactured in YTC's Salem, Virginia manufacturing plant during the period December 2, 2007 through September 19, 2009. is inconsequential to motor vehicle safety.

YTC describes the noncompliance as a labeling error that omits the Tire Identification Number (TIN)/partial TIN required by paragraph S5.5.1 on one of the tire sidewalls. YTC indicates that the noncompliant tires do however include the full TIN on the intended outboard sidewall.

YTC argues that the TIN and the partial TIN are used to properly identify tires that are involved in a safety campaign. YTC also stated its belief that the full TIN is molded on the

² YTC's petition identified 7,836 affected tires. Subsequent to filing its petition, YTC notified NHTSA that the actual number of affected tires is 6,254.

intended outboard sidewall of these tires and consumers could be directed to have both sidewalls inspected for the TIN if any safety campaign would be required for these tires in the future.

YTC also explained that all of the subject tires have been tested and certified compliant with all of the durability requirements of FMVSS No. 139 for high speed, endurance and low inflation pressure performance. The tires also meet all of the physical dimension, resistance to bead unseating and strength requirements of FMVSS No. 139.

In addition, YTC indicated that warranty and claim data for the subject tires reveals a very small number of tire warranty returns, and no reports of claims associated with accidents or tire failure incidents.

YTC also informed NHTSA that it has corrected the problem that caused this noncompliance.

In summation, YTC asserts that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not affect the physical characteristics of the tires and all other labeling requirements have been met. Therefore, no corrective action is warranted.

NHTSA DECISION: NHTSA does not agree with YTC's assessment that the noncompliance with FMVSS No. 139 is inconsequential to motor vehicle safety. As discussed below, the tire markings required by paragraph S5.5.1 of FMVSS No. 139 provide valuable

information to assist consumers in determining if their tires are the subject of a safety recall.

Paragraph S5.5.1 of FMVSS No. 139 requires that radial tires manufactured on or after September 1, 2009 for motor vehicles having a gross vehicle weight rating (GVWR) of 10,000 pounds or less be permanently labeled with: 1) a full TIN required by 49 CFR Part 574 on the intended outboard sidewall of the tire; 2) except for retreaded tires, either the full or a partial TIN containing all characters in the TIN, except for the date code, and at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire³.

Tire recalls in the year 2000 highlighted the difficulty that consumers experienced when attempting to determine whether a tire is subject to a recall when a tire is mounted so that the sidewall bearing the TIN faces inward i.e., underneath the vehicle. After a series of Congressional hearings about the safety of and experiences regarding the tires involved in those recalls, Congress passed and the President signed into law the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act on November 1, 2000. Pub. L. 106-414. 114 Stat. 1800.

³ Tires manufactured after September 1, 2009 must be labeled with the TIN on the intended outboard sidewall of a tire and either the TIN or partial TIN on the other sidewall. 49 CFR 571.139 S5.5.1(b). If a tire manufactured after September 1, 2009 does not have an intended outboard sidewall, one sidewall must be labeled with the TIN and the other sidewall must have either a TIN or partial TIN. *Id.*

One matter addressed by the TREAD Act was tire labeling. Section 11 of the TREAD Act required a rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a recall.

In response to the TREAD Act's mandate, NHTSA published a final rule that, among other things, required that the TIN be placed on a sidewall of the tire and a full or partial TIN be placed on the other sidewall. See 67 FR 69600, 69628 (November 18, 2002), as amended 69 FR 31306 (June 3, 2004). In the preamble to the 2002 final rule, the agency identified the safety problem which prompted the issuance of the rule. 67 FR at 69602, 69606, and 69610. The agency explained that when tires are mounted so that the TIN appears on the inward facing sidewalls, motorists have three difficult and inconvenient options for locating and recording the TINs. Consumers must either: 1) slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; 2) remove each tire, find and record the TIN, and then replace the tire; or 3) enlist the aid of a garage or service station that can perform option 1 or place the vehicle on a vehicle lift so that the TINs can be found and recorded. If the tires were mounted with the intended outward sidewall facing inboard, the intended inboard sidewall would be facing outboard and the TIN would not be visible. Without any TIN information on the

outside sidewalls of tires, the difficulty and inconvenience of obtaining the TIN by consumers reduces the number of people who respond to a tire recall campaign and increases the number of motorists who unknowingly continue to drive vehicles with potentially unsafe tires.

YTC suggests that this noncompliance does not preclude motorists from checking the inboard sidewall if the TIN is not found on the outboard sidewall. This approach is inadequate. The noncompliance here is the exact problem that plagued millions of tire owners in 2000 and one that Congress mandated that NHTSA address. When the TIN is placed on one sidewall of a tire and that sidewall is mounted on the inboard side of a wheel, it is very difficult and inconvenient for the consumer to locate and record the TIN. In such situations, consumers who attempt to determine if a tire is within the scope of a recall may not be able to read the inboard sidewall without taking one of the three inconvenient steps discussed above. The difficulty and inconvenience of locating a TIN under these circumstances poses serious impediments to the successful recall of the noncompliant tires, which may result in motorists continuing to drive their vehicles with potentially unsafe tires.

While NHTSA has determined in the past that in some instances TIN marking omissions were inconsequential to motor vehicle safety, those determinations occurred prior to the

adoption of FMVSS No. 139 pursuant to the TREAD Act. Following the enactment of the TREAD Act, NHTSA found that there is a safety need for a full TIN on one sidewall and a full or partial TIN on the other sidewall. For these reasons, FMVSS No. 139 now requires TIN markings on both sidewalls of a tire so that consumers can readily determine if a tire is subject to a safety recall.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, YTC's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: February 16, 2012

Nancy Lummen Lewis
Associate Administrator
for Enforcement

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